

IN THE CIRCUIT COURT OF HAMILTON COUNTY, TENNESSEE

ELIZABETH AND ROBERT HAMM,)
)
Plaintiffs,)
v.)
)
SAM'S WEST, INC., SAM'S CLUB)
DELEWARE, SAM'S EAST, INC. and)
JOHN DOE,)
)
Defendants.)

DOCKET NO. 201987

JURY DEMANDED

Division _____

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COMPLAINT

Plaintiffs Elizabeth and Robert Hamm, by undersigned counsel, and for their Complaint against Defendant Sam's West, Inc., Defendant Sam's Club Delaware, Defendant Sam's East, Inc. and Defendant John Doe (collectively "Defendants") state as follows:

I. PARTIES

1. Plaintiffs are residents and citizens of Ocoee, Polk County, Tennessee.
2. Defendant Sam's West, Inc, is a domestic for profit corporation. It may be served with process through its registered agent: CT Corporation System located at 300 Montvue Rd., Knoxville, TN 37919-5546. It is a citizen of Arkansas, where its principal place of business is located and where it is incorporated.
3. Defendant Sam's Club Delaware is a domestic for profit corporation. It may be served with process through its registered agent: CT Corporation System located at 300 Montvue Rd., Knoxville, TN 37919-5546. It is a citizen of Arkansas, where its principal place of business is located, and Delaware, where it is incorporated.
4. Defendant Sam's East, Inc. is a domestic for profit corporation. It may be served with process through its registered agent: CT Corporation System located at 300 Montvue Rd., Knoxville, TN 37919-5546. It is a citizen of Arkansas, where its principal place of business is

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EXHIBIT B

located and where it is incorporated. Defendants Sam's West, Sam's Club Delaware and Sam's East, Inc. are collectively referred to as "Sam's Club."

5. Defendant John Doe is a Sam's Club employee and/or agent who, during the course and scope of his employment or agency with Sam's Club, negligently struck Mrs. Hamm. Upon information and belief he is a citizen of Tennessee.

II. JURISDICTION AND VENUE

6. Pursuant to Tennessee Code Annotated § 16-10-101, Hamilton County Circuit Court has subject matter jurisdiction over this cause of action.

7. Pursuant to Tennessee Code Annotated § 20-4-101, venue is proper in Hamilton County Circuit Court because the events which give rise to this cause of action occurred in Hamilton County, Tennessee.

III. PERTINENT FACTS

8. On or about March 13, 2020, Mr. and Mrs. Hamm were at Sam's Club premises located on 6101 Lee Hwy, Chattanooga, TN 37421 ("the Premises"). The Hamms were patrons of Sam's Club and were on the Premises to shop. As Mrs. Hamm stood in an aisle next to one of the store's internal posts, Defendant John Doe pulled a pallet jack toward her. Defendant John Doe suddenly veered the pallet jack toward her, recklessly striking her and pinning her between the pallet jack and post.

9. Defendant John Doe was working in the course and scope of his employment or agency with Sam's Club when he struck Mrs. Hamm.

10. Sam's Club is liable for the negligence and/or recklessness of its employee and/or agent, Defendant John Doe.

11. Defendants were also negligent in improperly stocking the aisle during a busy time of the day when multiple store patrons were present.

12. Defendants were also negligent in using an overloaded pallet jack such that it made it likely that he would strike a Sam's Club patron.

13. Other patrons have similarly been injured during the course of Sam's Club employees or agents stocking merchandise in Sam's Club stores and Sam's Club has failed to implement policies to prevent patrons from being injured by pallet jacks.

14. As a direct and proximate result of Defendant's negligence and recklessness, Mrs. Hamm suffered permanent and painful injuries, incurred significant medical expenses, and suffered loss of enjoyment of life.

IV. CAUSES OF ACTION

15. The allegations contained in Paragraphs 1 through 14 are hereby incorporated by reference.

16. Defendant Joe Doe was an employee and/or agent of Sam's Club.

17. Sam's Club is liable for the behavior of its employee or agent, John Doe.

18. Defendants had a legal duty to others to exercise reasonable care to ensure products in Sam's Club were stocked in a safe manner. Defendants owed Mrs. Hamm a duty to safely stock or transport merchandise without striking her with a pallet jack. Defendants breached their duty and Mrs. Hamm was injured as a direct result, resulting in painful personal injuries.

19. Defendants' negligence and recklessness are the sole and proximate cause of the incident and Mrs. Hamm's injuries.

20. Sam's Club is further liable for punitive damages for recklessly and outrageously failing to implement policies and procedures to prevent patrons from being struck during the stocking or transporting of merchandise, knowing that other patrons have been similarly injured.

V. DAMAGES

21. The allegations contained in Paragraphs 1 through 20 are hereby incorporated by reference.

22. As a direct and proximate cause of Defendants' behavior, Mrs. Hamm is entitled to be compensated for the following damages:

- (a) mental and physical pain and suffering, including future pain and suffering;
- (b) loss of enjoyment of life; and
- (c) reasonable and necessary medical expenses incurred and likely to be incurred.

23. Mr. Hamm is further entitled to loss of consortium arising from the injuries suffered by Mrs. Hamm, his wife.

24. Plaintiffs are further entitled to an award of punitive damages against Sam's Club.


VI. PRAYER FOR RELIEF

WHEREFORE, Elizabeth and Robert Hamm pray as follows:

- A. that Summons and Process be issued to compel the Defendants to appear and answer this Complaint within the time prescribed by law;
- B. that judgment be entered against the Defendants for an amount not less than \$450,000.00;
- C. that a jury be impaneled to try the issues of this action;
- D. that the costs of this action be taxed against the Defendants; and
- E. that the Court grant such other equitable and general relief as the Court deems necessary and proper.

Respectfully submitted,

CHAMBLISS, BAHNER & STOPHEL, P.C.

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